

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

DUARD E. BAUMGARDNER,

Plaintiff,

v.

CIVIL ACTION NO. 3:05-0818

MICHAEL J. ASTRUE,  
Commissioner of Social Security,

Defendant.

**ORDER**

This action was referred to the Honorable Maurice G. Taylor, Jr., United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the plaintiff's motion for judgment on the pleadings be denied, that the like motion of the defendant be granted and the decision of the Commissioner be affirmed. Neither party has filed objections to the Magistrate Judge's findings and recommendation.

Accordingly, the Court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and **DENIES** the plaintiff's motion for judgment on the pleadings, **GRANTS** the like motion of the defendant and **AFFIRMS** the decision of the Commissioner consistent with the findings and recommendation.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Taylor, counsel of record, and any unrepresented parties.

ENTER: May 29, 2007

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE